

§599. Effective Date

A. This emergency regulation shall become effective upon publication in the *Louisiana Register*.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:224 and 42 U.S.C. 1395 et seq.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 25:1142 (June 1999), repromulgated LR 25:1522 (August 1999), amended LR 29:2497 (November 2003), amended LR 31:2948 (November 2005).

J. Robert Wooley
Commissioner

0511#035

RULE

Department of Insurance Office of the Commissioner

Regulation 88—Standardization of Health Benefits and Compliance Requirements for LaChoice (LAC 37:XIII.Chapter 113)

In accordance with the provisions of R.S. 49:950 et seq. of the Administrative Procedure Act and R.S. 22:3 and 22:245(C)(3), the Louisiana Department of Insurance is adopting the following regulation regarding the standardization of health benefits and compliance requirements for the implementation of LaChoice. More specifically, this regulation is necessary to implement and enforce the following provisions: R.S. 22:244, 22:245 and 22:246 of Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

This regulation shall be effective upon final publication in the *Louisiana Register*.

Title 37 INSURANCE

Part XIII. Regulations

Chapter 113. Regulation 88—Standardization of Health Benefits and Compliance Requirements for LaChoice

§11301. Purpose

A. The purpose of this regulation is:

1. to implement the statutory requirements in establishing pilot health insurance programs to increase access to affordable health insurance for small employers and for individuals pursuant to R.S. 22:244 et seq. of the Louisiana Revised Statutes of 1950; and

2. to carry out the intent of the Legislature and assure full compliance with the applicable statutory provisions by establishing procedures for the standardization of health benefits and compliance requirements. This program and the applicable statutory authority relating thereto shall be referred to hereinafter as "LaChoice."

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2948 (November 2005).

§11303. Applicability and Scope

A. Except as otherwise specifically provided, the requirements of this regulation shall apply to health

insurance issuers that choose to offer health insurance under the provisions of LaChoice as required pursuant to R.S. 22:244 et seq. of the Louisiana Revised Statutes of 1950.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2948 (November 2005).

§11305. Eligibility, Benefits and Underwriting Criteria

A. In order to participate in LaChoice, employers must not have provided group health insurance coverage to their employees for at least six months from the date the last policy of insurance was terminated or nonrenewed.

B. The Commissioner of Insurance shall have the authority via regulation to alter the above time period in accordance with R.S. 22:246(1).

C. In order to participate in LaChoice, a health insurance issuer shall be required to file all proposed health insurance policy forms with the Department of Insurance for review and approval. Such policies shall be in compliance with Regulation 78. A statement of compliance is not required.

D. Policies issued pursuant to the provisions of LaChoice shall be exempted from all state benefit mandates, including but not limited to those mandates contained in R.S. 22:213.2.A, R.S.22:215.1.B, R.S.22:215.8, R.S. 22:215.10, R.S. 22:215.11.A, R.S. 22:215.11.B, R.S. 22:215.14, R.S. 22:215.15, R.S. 22:215.16, R.S. 22:215.20, R.S. 22:215.21, R.S. 22:215.22, R.S. 22:215.24, R.S. 22:228.7, R.S. 22:230.4, R.S. 22:669, R.S. 22:2004.1 and R.S. 22:2004.2.

E. All such health insurance coverage shall meet the requirements of Part VI-C of Title 22 except as specifically enumerated by statute or regulation. Any waiting period imposed shall be in compliance with Part VI-C of Title 22.

F. Policies issued pursuant to the provisions of LaChoice shall be exempted from R.S. 22:250.4(F)(1), (2) and (3), and R.S. 22:250.15(A)(2), (3), (4) and (5) unless dependent coverage is offered pursuant to LaChoice policies. If dependent coverage is offered, the provisions of R.S. 22:250.4(F)(1), (2) and (3), and R.S. 22:250.15(A)(2), (3), (4) and (5) shall apply to LaChoice policies.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2948 (November 2005).

§11307. Participation Requirement

A. The health insurance issuer shall provide to the Department of Health and Hospitals through electronic means via a current ANSI X12N 834 transaction format pursuant to the HIPAA transactions and code sets requirements, an initial enrollment roster for each employer group listing employees who are to be covered by the health insurance issuer.

B. The initial enrollment roster for each employer group will include all employees who are to be covered by the health insurance issuer regardless of whether or not the employee is eligible for the LaChoice premium subsidy pursuant to §11311.

C. The health insurance issuer shall provide monthly employee update transactions to the Department of Health

and Hospitals using the 834 transaction format to indicate changes in insurance coverage for employees eligible for the LaChoice premium subsidy pursuant to §11311. Such changes shall include but not be limited to: changes in coverage, terminations from coverage and changes to employee demographics.

D. If an employee is to be covered in an employer group by the health insurance issuer and the employee was not included in the initial enrollment roster, the health insurance issuer shall include the employee in a monthly employee update transaction regardless of whether or not the employee is eligible for the LaChoice premium subsidy pursuant to §11311.

E. The health insurance issuer shall provide a monthly report to the Department of Insurance indicating the count of all insured or members covered under LaChoice for each employer group. Such list shall include the following categories:

1. a list of current employers enrolled in the program;
2. the number of insured or members who are receiving the subsidy pursuant to §11311;
3. the number of insured or members who are not receiving the subsidy pursuant to §11311.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2948 (November 2005).

§11309. Underwriting Criteria for Health Insurance

Issuer

A. Underwriting criteria shall comply with the provisions in Title 22 and shall be subject to actuarial review and approval by the Department of Insurance, pursuant to R.S. 22:246(6).

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2949 (November 2005).

§11311. Criteria for Public Subsidy

A. To be eligible for the LaChoice premium subsidy, an employee of a qualified employer that opts to provide LaChoice must make application and have household income levels at or below 200 percent of the federal poverty level as established by the Department of Health and Hospitals Medicaid Health Insurance Flexibility and Accountability (HIFA) Demonstration Project. Eligibility for the subsidy shall be determined by the Medicaid agency. Implementation of this provision shall be contingent upon the approval of the HIFA demonstration project by the U.S. Department of Health and Human Services, Centers for Medicare and Medicaid Services.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2949 (November 2005).

§11313. Enforcement Provisions

A. The Commissioner of Insurance shall have the authority to disapprove a policy submitted pursuant to LaChoice in accordance with R.S. 22:621 that fails to comply with the provisions of any statute or regulation.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2949 (November 2005).

§11315. Financial Statement requirements

A. The following requirement is applicable only to health insurance issuers that offer LaChoice policies. Such health insurance issuers shall be required to report LaChoice business in a supplemental worksheet to the annual statement in a format to be provided by the Louisiana Department of Insurance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2949 (November 2005).

§11317. Discontinuation of Product Type

A. When a health insurer issuer decides to discontinue offering policies pursuant to the LaChoice program, R.S. 22:250.7(C)(1)(a),(b),(c) and (d) shall be applicable in the discontinuation of such product.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2949 (November 2005).

§11319. Severability

A. If any Section or provision of this regulation or the application to any person or circumstance is held invalid, such invalidity or determination shall not affect other Sections or provisions or the application of this regulation to any persons or circumstances that can be given effect without the invalid Section or provision or application, and for these purposes the Sections and provisions of this regulation and the application to any persons or circumstance are severable.

AUTHORITY NOTE: Promulgated in accordance with R.S. 22:3 and 22:245(C)(3) to implement and enforce the following provisions: R.S. 22:244, 22:245, and 22:246, Part VI-B. of Chapter One of Title 22 of the Louisiana Revised Statutes of 1950.

HISTORICAL NOTE: Promulgated by the Department of Insurance, Office of the Commissioner, LR 31:2949 (November 2005).

J. Robert Wooley
Commissioner

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